

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: April 25, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 17-0111. Commercial Height Standards**

REQUESTS

PB 17-0111. COMMERCIAL HEIGHT STANDARDS – AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY CODE, BY AMENDING CHAPTER 114, "GENERAL PROVISIONS," BY AMENDING SECTION 114-1, "DEFINITIONS," AND BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS", BY AMENDING DIVISION 4, "CD-1, COMMERCIAL, LOW-INTENSITY DISTRICT," SECTION 142-276, "DEVELOPMENT REGULATIONS, AND DIVISION 5, "CD-2, COMMERCIAL, MEDIUM-INTENSITY DISTRICT," SECTION 142-306, "DEVELOPEMENT REGULATIONS," AND DIVISION 6, "CD-3, COMMERCIAL, HIGH-INTENSITY DISTRICT," "SECTION 142-336, "DEVELOPMENT REGULATIONS AND AREA REQUIREMENTS," AND DIVISION 13, "MXE, MIXED USE ENTERTAINMENT DISTRICT," SECTION 142-545, "DEVELOPMENT REGULATIONS," AND DIVISION 18, "PS, PERFORMANCE STANDARD DISTRICT," SECTION 142-698, "COMMERCIAL PERFORMANCE STANDARD AREA REQUIREMENTS," TO MODIFY ALLOWABLE HEIGHTS FOR THE PURPOSE OF SEA-LEVEL RISE MITIGATION; AND BY AMENDING ARTICLE IV, "SUPPLEMENTARY DISTRICT REGULATIONS", DIVISION 5, "HEIGHT REGULATIONS," SECTION 142-1161, "HEIGHT REGULATION EXCEPTIONS," TO ALLOW FOR SOLAR PANELS, WIND TURBINE AND SUSTAINABLE ROOFING SYSTEMS; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY, AND AN EFFECTIVE DATE .

RECOMMENDATION:

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

HISTORY

On January 17, 2017, the Mayor's Blue Ribbon Panel on Sea Level Rise discussed the attached Ordinance amendment and recommended that the City Commission refer it to the Land Use and Development Committee and Planning Board.

On February 8, 2017, the City Commission referred the proposed Ordinance amendment to the Land Use and Development Committee (Item C4 D). The amendment was simultaneously referred to the Planning Board. Commissioners John Elizabeth Alemán and Joy Malakoff are the sponsors of the item.

On February 15, 2017 the Land Use and Development Committee discussed the item and continued it to the March 8, 2017 meeting. On March 8, 2017 the Land Use and Development Committee recommended that the ordinance be transmitted to the Planning Board with revised language clarifying that additional height is specific to the first level.

REVIEW CRITERIA

In accordance with Section 118-163 (3), when reviewing a request for an amendment to these land development regulations, the Board shall consider the following where applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Consistent – The uses proposed modifications are consistent with the Goals, Objectives, and Policies of the Comprehensive Plan.
2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

Not Applicable – The proposed amendment does not modify district boundaries.
3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

Not Applicable – The proposed Ordinance will not allow for development that is out of scale with the needs of the neighborhoods or the City.
4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

Consistent – The proposed will not modify the intensity of development.
5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

Not Applicable – The existing boundaries are not proposed to be modified by the proposed Ordinance.
6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

Consistent – The need to mitigate and address impacts related to Sea Level Rise and Climate Change makes passage of the proposed change necessary.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

Consistent – The proposed change will not adversely affect living conditions in the neighborhood, and is intended to safeguard commercial areas from potential impacts of sea level rise and climate change.

8. **Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

Consistent – The proposed change will not impact the levels of service set forth in the Comprehensive Plan.

9. **Whether the proposed change will seriously reduce light and air to adjacent areas.**

Consistent – The proposal allows for up to a ten (10) foot height increase in affected areas. This increase will not seriously reduce light and air to adjacent areas.

10. **Whether the proposed change will adversely affect property values in the adjacent area.**

Consistent – The proposed change should not adversely affect property values in the adjacent areas.

11. **Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

Consistent – The proposal will not be a deterrent to the improvement or development of adjacent property.

12. **Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

Not applicable.

13. **Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.**

Not applicable.

ANALYSIS

In an effort to adapt to the effects of climate change and sea level rise, the City has adopted regulations related to the base flood elevation (BFE) and Freeboard to encourage the ground floor of new buildings to be developed at a higher elevation. In addition, the City is raising the levels of roads and sidewalks to ensure that they remain dry and passable. During this transition period sidewalk and ground floors may be located at different elevations. Commercial

buildings however rely on customers passing by the sidewalk and being drawn in by the view of the commercial uses inside.

As a result the attached ordinance amendment would allow for buildings in commercial districts that are proposed at the maximum number of stories, to be developed with an additional ten (10) feet of height, provided the ground floor is a minimum of 18 feet high with the review and approval of the Design Review Board or Historic Preservation Board, as applicable. This would allow for the ground floor to be placed at a lower level, while providing sufficient ceiling height for the ground floor to be raised at such time when roadways and sidewalks are raised.

Additionally, the proposal amends and expands allowable height exceptions for sustainable roofing systems and alternative forms of energy. This includes, solar roof, blue roof, white roof, cool roof, green roof, and rooftop farming roofing system, along with solar panels, wind turbines, and other alternative energy fixtures as allowable height exceptions in all districts except single-family districts.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

TRM/MAB/RAM

COMMERCIAL HEIGHT STANDARDS

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY CODE, BY AMENDING CHAPTER 114, "GENERAL PROVISIONS," BY AMENDING SECTION 114-1, "DEFINITIONS," AND BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS", BY AMENDING DIVISION 4, "CD-1, COMMERCIAL, LOW-INTENSITY DISTRICT," SECTION 142-276, "DEVELOPMENT REGULATIONS, AND DIVISION 5, "CD-2, COMMERCIAL, MEDIUM-INTENSITY DISTRICT," SECTION 142-306, "DEVELOPEMENT REGULATIONS," AND DIVISION 6, "CD-3, COMMERCIAL, HIGH-INTENSITY DISTRICT, "SECTION 142-336, "DEVELOPMENT REGULATIONS AND AREA REQUIREMENTS," AND DIVISION 13, "MXE, MIXED USE ENTERTAINMENT DISTRICT," SECTION 142-545, "DEVELOPMENT REGULATIONS," AND DIVISION 18, "PS, PERFORMANCE STANDARD DISTRICT," SECTION 142-698, "COMMERCIAL PERFORMANCE STANDARD AREA REQUIREMENTS," TO MODIFY ALLOWABLE HEIGHTS FOR THE PURPOSE OF SEA-LEVEL RISE MITIGATION; AND BY AMENDING ARTICLE IV, "SUPPLEMENTARY DISTRICT REGULATIONS", DIVISION 5, "HEIGHT REGULATIONS," SECTION 142-1161, "HEIGHT REGULATION EXCEPTIONS," TO ALLOW FOR SOLAR PANELS, WIND TURBINE AND SUSTAINABLE ROOFING SYSTEMS; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach seeks to encourage and incentivize new development and the preservation and restoration of structures located within the City; and

WHEREAS, the City of Miami Beach has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, the City of Miami Beach recognizes Sea level rise and it responsibility to the citizens to adapt to meet those needs; and

WHEREAS, the City of Miami Beach understands how important it is to build resilient buildings that will be able to survive Sea Level Rise; and

WHEREAS, to mitigate the impacts of Climate Change the City must allow for the residents and buildings to reduce their vulnerability; and

WHEREAS, the City of Miami Beach understands that to combat the harmful effects of Climate Change, Local Municipalities are the front line of adaptation and must if there is no example to follow; and

WHEREAS, it is in the best interest of the City to promote the economic environmental health in the City through sustainable and environmentally friendly design and construction which reduces demand for energy and reduces greenhouse gas emissions; and

WHEREAS, studies have indicated that green buildings have lower maintenance costs associated with low energy consumption, which will improve the City's long-term economic well-being; and

WHEREAS, it is in the interest of the health, safety and welfare of the residents of the City to ensure sustainable construction and to ensure that the City safeguard natural resources and ensure that efficient buildings are constructed; and

WHEREAS, the amendment set forth below is necessary to accomplish all of the above objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. Amending Chapter 114 of the City Code, entitled "General Provisions," Section 114-11, "Definitions," of the Land Development Regulations, is hereby amended to read as follows:

Chapter 114 – GENERAL PROVISIONS

Sec. 114-1 – Definitions

Blue roof means a non-vegetated source control to detain storm-water. A blue roof slows or stores storm-water runoff by using various kinds of flow controls that regulate, block, or store water instead of vegetation.

* * *

Cool roof see white roof

* * *

Green roof means a green space created by layers of growing medium and vegetation added on top of a traditional roofing system. It may also include additional layers such as a root barrier and drainage and irrigation systems.

* * *

Height of building means the vertical distance from the lowest floor according to the following, as applicable:

- (a) When the minimum finished floor elevation is located between grade and base flood elevation plus "City of Miami Beach Freeboard", height shall be measured from the minimum finished floor elevation to the highest point of the roof;

(b) When the minimum finished floor elevation is located above the base flood elevation plus Freeboard, height shall be measured from the base flood elevation plus Freeboard.

The highest point of a roof is as follows:

1. The highest point of a flat roof;
2. The deck line of a mansard roof;
3. The average height between eaves and ridge for gable hip and gambrel roofs; or
4. The average height between high and low points for a shed roof.

(c) ~~As all rights-of-way have not yet been elevated,~~ For commercial properties, height shall be measured from the base flood elevation, plus freeboard, provided that the height of the first floor shall be tall enough to allow the first floor to eventually be elevated to base flood elevation, plus minimum freeboard, with a future minimum interior height of at least ten (10) feet once the adjacent right-of-way is elevated as provided under the City's Public Works Manual.

* * *

Roof top farm means a garden on the roof of a building including roof plantings that may provide food, temperature control, hydrological benefits, architectural enhancement, recreational opportunities, and in large scale ecological benefits.

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White roof means a roof that has been painted white or is surfaced with some other light or reflective material.

* * *

SECTION 2. Amending Chapter 142 of the City Code, entitled "Zoning Districts and Regulations," Article II. "District Requirements," Section 142-276, "Development Regulations," of the Land Development Regulations, is hereby amended to read as follows:

Chapter 142 - ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE II. - SUPPLEMENTARY DISTRICT REGULATIONS

* * *

DIVISION 4. – CD-1 COMMERCIAL, LOW INTENSITY DISTRICT

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Sec. 142-276. - Development regulations.

The development regulations in the CD-1 commercial, low intensity district are as follows:

Maximum
Building
Height
(Feet)

40

For structures proposed at the maximum number of stories, the Design Review Board or Historic Preservation Board, as applicable, in accordance with the applicable review criteria, may allow an additional 10 feet, provided the first story has a minimum height of 18 feet.

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DIVISION 5. – CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

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Sec. 142-306. - Development regulations.

The development regulations in the CD-2 commercial, medium intensity district are as follows:

Maximum
Building
Height
(Feet)

50

For structures proposed at the maximum number of stories, the Design Review Board or Historic Preservation Board, as applicable, in accordance with the applicable review criteria, may allow an additional 10 feet, provided the first story has a minimum height of 18 feet.

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DIVISION 6. – CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT

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Sec. 142-337. - Development regulations and area requirements.

(a) The development regulations in the CD-3 commercial, high intensity district are as follows:

(1) Max FAR: Lot area equal to or less than 45,000 sq. ft.—2.25; Lot area greater than 45,000 sq. ft.—2.75; Oceanfront lots with lot area greater than 45,000 sq. ft.—3.0.

(2) Notwithstanding the above, oceanfront lots in architectural district shall have a maximum FAR of 2.0.

(3) ~~Notwithstanding the above, lots located between Drexel Avenue and Collins Avenue and between 16th Street and 17th Street shall have a maximum FAR of 2.75.~~

(4) Notwithstanding the above, lots which, as of the effective date of this ordinance (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 sq. ft. with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 sq. ft.

(b) However, the floor area ratio maximum for residential development, inclusive of hotels, in the architectural district shall be 2.50.

(c) The lot area, lot width, unit size and building height requirements for the CD-3 commercial, high intensity district are as follows:

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For structures proposed at the maximum number of stories, the Design Review Board or Historic Preservation Board, as applicable, in accordance with the applicable review criteria, may allow an additional 10 feet, provided the first story has a minimum height of 18 feet.

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DIVISION 13. – MXE MIXED USE ENTERTAINMENT DISTRICT

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Sec. 142-545. - Development regulations.

The development regulations in the MXE mixed use entertainment district are as follows:

Maximum
Building
Height
(Feet)

75

For structures proposed at the maximum number of stories, the Design Review Board or Historic Preservation Board, as applicable, in accordance with the applicable review criteria, may allow an additional ten (10) feet, provided the first story has a minimum height of 18 feet.

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DIVISION 18. – PS PERFORMANCE STANDARD DISTRICT

Sec. 142-698. – Commercial Performance standard area requirements.

(b)The commercial performance standard area requirements are as follows:

C-PS1

Maximum
Building
Height

40

For structures proposed at the maximum number of stories, the Design Review Board or Historic Preservation Board, as applicable, in accordance with the applicable review criteria, may allow an additional ten (10) feet, provided the first story has a minimum height of 18 feet.

C-PS2

Maximum
Building
Height

50

For structures proposed at the maximum number of stories, the Design Review Board or Historic Preservation Board, as applicable, in accordance with the applicable review criteria, may allow an additional ten (10) feet, provided the first story has a minimum height of 18 feet.

C-PS3

Maximum
Building
Height

80

For structures proposed at the maximum number of stories, the Design Review Board or Historic Preservation Board, as applicable, in accordance with the applicable review criteria, may allow an additional ten (10) feet, provided the first story has a minimum height of 18 feet.

C-PS4

Maximum
Building
Height

For structures proposed at the maximum number of stories, the Design Review Board or Historic Preservation Board, as applicable, in accordance with the applicable review criteria, may allow an additional ten (10) feet, provided the first story has a minimum height of 18 feet.

SECTION 3. Amending Chapter 142 of the City Code, entitled "Zoning Districts and Regulations," Article IV, "Supplementary District Regulations," Division 5, "Height Regulations," Section 142-1161, "Height Regulation Exceptions," of the Land Development Regulations, is hereby amended to read as follows:

* * *

DIVISION 5. – HEIGHT REGULATIONS

Sec. 142-1161. - Height regulation exceptions.

For all districts, except RS-1, 2, 3 and 4 (single-family residential districts).

- (a) The height regulations as prescribed in these land development regulations shall not apply to the following when located on the roof of a structure or attached to the main structure. For exceptions to the single-family residential districts, see subsection 142-105(e).
 - (1) Air conditioning, ventilation, electrical, plumbing equipment or equipment rooms.
 - (2) Chimneys and air vents.
 - (3) Decks, not to exceed three feet above the main roofline and not exceeding a combined deck area of 50 percent of the enclosed floor area immediately one floor below.
 - (4) Decorative structures used only for ornamental or aesthetic purposes such as spires, domes, belfries, not intended for habitation or to extend interior habitable space. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below.
 - (5) Elevator bulkheads or elevator mechanical rooms.
 - (6) Flagpoles subject to the provisions of section 138-72.
 - (7) Parapet walls, not to exceed three and one-half feet above the main roofline unless otherwise approved by the design review board up to a maximum of 25 feet in height.
 - (8) Planters, not to exceed three feet in height above the main roofline.
 - (9) Radio, television, and cellular telephone towers or antennas, and rooftop wind turbines.
 - (10) Stairwell bulkheads.
 - (11) Skylights, not to exceed five feet above the main roofline.
 - (12) Stage towers or scenery lofts for theaters.

(13) Swimming pools, whirlpools or similar structures, which shall have a four-foot wide walkway surrounding such structures, not to exceed five feet above the main roofline.

(14) Trellis, pergolas or similar structures that have an open roof of cross rafters or latticework.

(15) Water towers.

(16) Bathrooms required by the Florida Building Code, not to exceed the minimum size dimensions required under the Building Code, provided such bathrooms are not visible when viewed at eye level (five feet, six inches from grade) from the opposite side of the adjacent right-of-way; for corner properties. Such bathrooms shall also not be visible when viewed at eye level (five feet, six inches from grade) from the diagonal corner at the opposite side of the right-of-way and from the opposite side of the side street right-of-way.

(17) Solar Panels, wind turbines and other alternative energy fixtures.

(18) Sustainable roofing systems.

(b) The height of all allowable items in subsection (a) of this section, unless otherwise specified, shall not exceed 25 feet above the height of the roofline of the main structure. With the exception of items described in subsection (a)(17) of this section, when any of the above items are freestanding, they shall follow the height limitations of the underlying zoning district (except flagpoles which are subject to section 138-72).

(c) Notwithstanding other provisions of these regulations, the height of all structures and natural growth shall be limited by the requirements of the Federal Aviation Agency and any airport zoning regulations applicable to structure and natural growth.

SECTION 3. REPEALER.

All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, as amended; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 6. EFFECTIVE DATE.

This ordinance shall take effect 10 days after adoption.

PASSED and ADOPTED this _____ day of _____ 2017.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading: _____, 2017
Second Reading: _____, 2017

Verified By: _____
Thomas R. Mooney, AICP
Planning Director

Underline = new language

~~Strikethrough~~ = deleted language

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